



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

F.#2011R01411

271 Cadman Plaza East
Brooklyn, New York 11201

July 19, 2012

By ECF on 7/19/12 and By Hand on 7/20/12

Joseph W. Ryan, Jr., P.C.
225 Old Country Road
Melville, New York 11747-3111

Re: United States v. Mair Faibish
Criminal Docket No. 12-265 (ENV)

Dear Mr. Ryan:

Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, the government provides you with additional discovery. This sixth discovery letter supplements the government's discovery letters of April 30, 2012, May 9, 2012, June 19, 2012, June 8, 2012, June 18, 2012, and June 19, 2012.

To be produced with this letter at tomorrow's status conference is the hard drive containing images of the two corporate servers obtained during the execution of search warrants on May 7, 2010. Also contained on the hard drive are images of the following company computers also obtained during the search:

Mair Faibish (1 computer)
Ron Hassin (1 computer)
Christina Norris (1 computer)
Derron Denson (1 computer)
Office of Stephen Barbella and Ernest Barbella (3 computers)
Thomas Barbella (2 computers)
Joseph Castellano (1 computer)

An eleventh computer, that of Mitchell Gerstein, was also imaged, but the data was corrupted in the imaging process.

However, the Gerstein computer was later retrieved and imaged. That image is also being produced to you at the status conference.

Further, attached to this letter is an index to new discovery on a CD that will be turned over to you at the July 20, 2012 status conference. Please note that these materials include, at your specific request, a draft interview report of Giuseppe "Joe" Gatti conducted by corporate attorneys and investigators. The government just received this draft interview report today, July 19, 2012.

The government directs your attention to two anomalies with regard to the productions from Holtz Rubenstein Reminick, the company's auditor. First, please note that there were two CDs received from HRR. The contents of the first CD is included in this production. The contents of the second CD were unreadable to us in the U.S. Attorney's Office. We are working on obtaining readability of this CD. When we are able to access the data on the second CD, you will be provided with that data promptly. Second, please note that the first HRR CD uses a Bates range with the prefix HRR. However, the government had already used the HRR Bates prefix in a previous production made to you. Because we received the CDs from the auditors already Bates-stamped, we are unable to alter the Bates numbers to avoid duplication of Bates ranges. (It is likely that the second CD from the auditors will continue the duplicated range.)

The government reiterates its request for reciprocal discovery under Rule 16(b) of the Federal Rules of Criminal Procedure. The government requests that the defendant allow inspection and copying of (1) any books, papers, documents, photographs, tapes, tangible objects, or copies or portions thereof, which are in the defendant's possession, custody or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial, and (2) any results of reports or physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are in the defendant's possession, custody, or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial or which were prepared by a witness whom the defendant intends to call at trial.

The government also requests that the defendant disclose prior statements of witnesses who will be called by the defendant to testify. See Fed. R. Crim. P. 26.2. In order to avoid any unnecessary delay, we request that you have copies of

these statements available for production to the government no later than the commencement of trial.

The government also requests that the defendant disclose a written summary of testimony the defendant intends to use under Rules 702, 703, and 705 of the Federal Rules of Evidence. The summary should describe the opinions of the witnesses, the bases and reasons for those opinions, and the witnesses' qualifications.

If you have any questions or further requests, please do not hesitate to contact me.

Very truly yours,

LORETTA E. LYNCH
United States Attorney

By:



Ilene Jaroslaw
Assistant United States Attorney
(718) 254-6236

Enclosure

cc: Clerk of Court (via ECF)
(without enclosures)

Document	Bates Prefix	Starting Bates #	Ending Bates #	Pages
Employee pedigree information	PHS	13	57	45
I-9 Forms	PHS	58	119	62
Wage reporting	PHS	120	205	86
Trading vouchers and Laurentian bank statements from Capital One Bank	CAPITALONE	13348	13374	27
Faibish personal financial statement from Signature Bank	SIG	2992	2997	6
Grant Thorton LLP review of Loretta Group from Arkin Kaplan and Rice	GRANT	1	15	15
BMO Harris Bank N.A. (bank records regarding Ontario Limited)	BMO	1	106	106
Capital One Bank records 2007-June 2008	CAPITALONE	13375	20189	6815
2009 HR&R audit CD 1	HRR	1	2078	2078
10/6/10 SBI. MairFaibish Interview	FAIBISH	1	10	10
Capital One Bank ex parte motion	CAPITALONE	20190	20201	12
9/30/10 Credit Facilities Analysis	CREDITOVERVIEW1	1	1	1
10/13/11 EDNY Bankruptcy Court deposition - Mitchell Gerstein	GERSTEINDEP	1	29	29
Synergy Brands Inc. Executive Summary	EXECSUMM	1	3	3
11/25/10 First report of the court of Ernst & Young Inc.	EY	1	83	83

Janney Capital Markets - 12/16/10 Synergy Brands Follow Up	JANNEY	80	109	30
11/1/10 Faibish and Gerstein joint interview	FAIBISHGERST EIN	1	6	6
11/23/10 Faibish phone interview	FAIBISH	11	14	4
10/14/10 Gerstein interview	GERSTEIN	1	9	9
Report prepared by Grant Thornton LLP about Loretta Group	GRANT	16	20	5
Signature Bank review of Loretta Docs	SIG	575	583	9
Janney Capital Markets - 10/27/10 Synergy confidential discussion materials	JANNEY	1	79	79
2008 Form 1120S - AMTON Inc.	BARBELLA	109	135	27
7/13/11 341 Meeting for QFB	QFB	1	27	27
U.S v. Ernest Barbella indictment	E BARBELLA	1	11	11
Barbella News Article	E BARBELLA	12	23	12
NYS Forgery Conviction docs	E BARBELLA	24	28	5
NYS Insider Trading Conviction docs	E BARBELLA	29	34	6
Gran Reserve article	GRANRESERVE	1	2	2
Marguerite Barbella Deposition Day 1	M BARBELLA	1	193	193
Marguerite Barbella Deposition Day 2	M BARBELLA	194	219	26
Brent's Locksmith letter - Bektram	BEKTRAM	1	2	2

Signature Bank v. Holtz Rubenstein Reminick LLP motion to dismiss	SIG	584	597	14
6/35/12 SBI Barbella Bank Production Docs	ERNEST	203	232	30
Barbella exhibit 22 (checks)	EBARBELLA22	1	4	4
4/17/12 Faibish text message	FAIBISH	15	15	1
Draft report of interview with Giuseppe "Joe Gatti"	BDO	1	5	5